



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,619	03/10/2004	Zachary W. Lyon	40009-0002	6179
20480	7590	05/01/2007		
STEVEN L. NICHOLS RADER, FISHMAN & GRAVER PLLC 10653 S. RIVER FRONT PARKWAY SUITE 150 SOUTH JORDAN, UT 84095			EXAMINER CEGIELNIK, URSZULA M	
			ART UNIT	PAPER NUMBER
			3711	
			MAIL DATE	DELIVERY MODE
			05/01/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/798,619	Applicant(s) LYON, ZACHARY W.	
	Examiner Urszula M. Cegielnik	Art Unit 3711	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 April 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.


EUGENE KIM
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments were considered but they are not persuasive. Applicant argues that Coleman fails to disclose one or more panels bearing identification indicia or decorative elements, said panels being selectively and releasably attached to said main body such that the identification indicia or decorative elements on said vehicle can be changed by replacing a said panel attached to said main body without removing said main body from said vehicle. The Examiner submits that Coleman states paragraph 0042, lines 26-29, "when the user wishes to remove the flapper mount assembly 50 (which consists of panel(s) 52 and mounting means 54,56) from the bicycle mounting assembly 30, the user simply withdraws the flapper mount assembly 50. The Examiner notes that Coleman does not state that the main body (denoted by reference part 30) had to be removed first. Furthermore, Coleman notes at lines 28-32 of the same paragraph, teaches selectively and releasable fastening mechanism such as snaps, buckles, ties. At paragraph 0051, lines 3-4, Coleman states "Flappers are designed for quick insertion and removal. Applicant further argues that Coleman fails to disclose "one or more panels bearing identification indicia or decorative elements...", Coleman states in paragraph 0051, "The flapper mount assembly and bicycle mounting clamp enclosure assembly of the device may have other graphic treatments such as pictures, designs, patterns, geometric, or non-geometric shapes, trademarks of branded products, team logos, decals, etc. added to the surface to enhance the appearance of the accessory or for advertising purposes. With regards to the "identification indicia", it can be any indicia that is connected with the person riding the bicycle - they can be identified by their loyalty for a particular sports team through by displaying the team's logo as if to identify his or herself with the team through the logo. Coleman clearly discloses panels (mounts 54,56 in conjunction with reference part 38) that are selectively and releasably attached to a main body. With respect to Applicant's argument that Coleman does not disclose the ability to disposed the vibratory member in any of a variety of angles with respect to the supporting main body, the Examiner notes that Coleman (paragraph 0042) discloses notches in the form of grooves along edges of the flapper mount assembly 50 and corresponding raises within the channel of the mounting clamp enclosure 30 that allow the flapper mount assembly 50 to be advanced into enclosure 38, thereby attaching the vibratory member to the main body. With regard to the recitation "variety of angles", the flapper (52) is capable of being attached at a variety of angles as claimed by Applicant, such as mounting the flapper to one or two of the three holes (via elements represented by reference parts 54,56) to have an elevated angle with respect to the mounting assembly or a lowered angle with respect to the mounting assembly. Accordingly, the Examiner submits that In view of comments made immediately above, the Final Rejection (filed 13 February 2007) is maintained. .